

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 01 December 2004

Case No.: 2004-AIR-34

In the Matter of

THOMAS TOMBURO,
Complainant

vs.

CONTINENTAL AIRLINES, INC.,
Respondent.

**DECISION AND ORDER APPROVING WITHDRAWAL
OF OBJECTIONS**

This matter arises from a complaint filed by Thomas Tomburo against Continental Airlines under Section 519 of the Wendell H. Ford Aviation Investment and Reform Act, 49 U.S.C. §42121 ("AIR 21"). On July 22, 2004, the Regional Administrator for the Occupational Safety and Health Administration issued findings concerning the complaint. Thereafter Complainant objected to said findings and requested a hearing pursuant to the provisions of 29 C.F.R. §1979.106.

The undersigned set this case for hearing, now set for February 8, 2005 in Houston, Texas. On November 22, 2004 Complainant's Counsel, filed a Joint Motion to Dismiss and Agreed Order of Dismissal, wherein both complainant and respondent have decided to not pursue their claim against each other and have agreed to dismiss all claims with all costs to be paid by the party incurring same.

Twenty-nine C.F.R. 1979.111 provides that, at any time before the findings or order become final, a party may withdraw his objections to the findings or order by filing a written request for withdrawal with the administrative law judge. I construe the Complainant's request for dismissal as a request for withdrawal of his objections to the July 22, 2004 Occupational Safety and Health Administration's (OSHA's) findings. Accordingly,

IT IS HEREBY ORDERED that, the Complainant's objections to the July 22, 2004 OSHA findings are **WITHDRAWN**. Such findings shall constitute the final order of the Secretary of Labor.

IT IS FURTHER ORDERED that the hearing set for **February 8, 2005** at **9:00 a.m.** in **Houston, Texas** is hereby **CANCELED**.

So ORDERED.

A

RICHARD D. MILLS
Administrative Law Judge